

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON**

<b>CRYSTAL MCLERAN,</b>	) NO.
	) COMPLAINT FOR VIOLATIONS OF
	) CIVIL RIGHTS (42 USC 1983),
<b>Plaintiff,</b>	) INTENTIONAL INFILCTION OF
	) EMOTIONAL DISTRESS, NEGLIGENCE
<b>V.</b>	)
	)
<b>RANDY RAKEVICH, individually and</b>	)
<b>In his capacity as a SAFETY and</b>	)
<b>HEALTH SPECIALIST, LOGGING</b>	)
<b>At the DIVISION OF OCCUPATIONAL</b>	)
<b>SAFETY AND HEALTH of the</b>	)
<b>WASHINGTON DEPARTMENT OF</b>	)
<b>LABOR AND INDUSTRIES; MATT</b>	)
<b>LUDWIG, individually and in his</b>	)
<b>Capacity as a SUPERVISOR at the</b>	)
<b>DIVISION OF OCCUPATIONAL</b>	)
<b>SAFETY AND HEALTH of the</b>	)
<b>WASHINGTON DEPARTMENT OF</b>	)
<b>LABOR AND INDUSTRIES; JAMES</b>	)
<b>SMITH, individually and in his</b>	)
<b>Capacity as a SUPERVISOR at the</b>	)
<b>DIVISION OF OCCUPATIONAL</b>	)

**MCLERAN v. RAKEVICH- COMPLAINT**

1

LAWRENCE A. HILDES (WSBA # 35035)

P.O. Box 5405

Bellingham, WA 98227

Telephone: (360) 599-4339

Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

**SAFETY AND HEALTH of the )  
WASHINGTON DEPARTMENT OF )  
LABOR AND INDUSTRIES; )  
Does 1-150 )  
 )  
Defendants. )  
 )**

---

CRYSTAL McLERAN, the Plaintiff herein, by and through her attorney, alleges as follows:

**I. JURISDICTION**

1. This Court has jurisdiction over the subject matter of this action pursuant to Title 28, United States Code Sections 1331, 1332, 1343, and 1367, and venue is properly set in the Western District Federal Court pursuant to 28 U.S.C. 1391.
2. The claims upon which this suit is based occurred in this judicial district.
3. Plaintiffs are informed and believe, and on that basis allege, that each of the named Defendants reside in this judicial district.

**II. PARTIES**

2.1 PLAINTIFF CRYSTAL McLERAN is, and was at the time of the incidents described herein, a MARRIED woman residing primarily in the State of Washington, in Grays Harbor County within the Western District of Washington.

Plaintiff was the co-owner with her husband of a tree trimming/logging company that she was transiting to full management of and concurrently, her husband took over

**MCLERAN v. RAKEVICH- COMPLAINT**

2

LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

as foreman. Plaintiff was singled out for discriminatory conduct based on her gender including sexual harassment, disparate treatment, and retaliation for refusing to engage in sexual conduct with Defendant Rakevich, who used his position and public/regulatory authority to try to coerce Plaintiff into entering into a sexual relationship with him and then retaliated against her for refusing.

2.2 DEFENDANT RANDY RAKEVICH is and was at the time of the incidents described herein, a LOGGING SAFETY AND HEALTH INSPECTOR for the DIVISION OF OCCUPATIONAL SAFETY AND HEALTH of the WASHINGTON STATE DEPARTMENT of LABOR AND INDUSTRIES responsible for conducting inspections, responding to complaints, and ensuring safe working conditions in Grays Harbor County and adjoining areas in the Western District of Washington. Defendant RAKEVICH misused that public position and the power granting to him under color of authority for personal pleasure and in order to gain power and dominance over women as evidenced by Defendant's conduct in this and other incidents. By knowledge and belief, Defendant RAKEVICH resides in this Judicial District in THURSTON or GRAYS HARBOR COUNTY.

2.3 Now and at the time of the incidents described herein, Defendant MATT LUDWIG was a SUPERVISOR AT THE DIVISION OF OCCUPATIONAL SAFETY AND HEALTH of the WASHINGTON STATE DEPARTMENT of LABOR AND INDUSTRIES and was a direct supervisor of DEFENDANT RAKEVICH. He was apprised by Plaintiff of RAKEVICH's harassment of and retaliation against PLAINTIFF and refused to take

**MCLERAN v. RAKEVICH- COMPLAINT**

3

LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

action against RAVEVICH, instead supporting RAKEVICH, passively and actively, and ratifying RAKEVICH'S punitive retaliatory acts against Plaintiff resulting in direct , wholly foreseeable harm to Plaintiff. According to Information and Belief DEFENDANT LUDWIG resides in THURSTON or GRAYS HARBOR County within this judicial district.

2.4 Now and at the time of the incidents described herein, Defendant JAMES SMITH was a SUPERVISOR AT THE DIVISION OF OCCUPATIONAL SAFETY AND HEALTH of the WASHINGTON STATE DEPARTMENT of LABOR AND INDUSTRIES and was a direct supervisor of DEFENDANT RAKEVICH. He was apprised by Plaintiff of RAKEVICH's harassment of and retaliation against PLAINTIFF and refused to take action against RAVEVICH, instead supporting RAKEVICH, passively and actively and ratifying RAKEVICH'S punitive retaliatory acts against Plaintiff resulting in direct wholly foreseeable harm to Plaintiff. According to Information and Belief DEFENDANT JAMES SMITH resides in THURSTON or GRAYS HARBOR County within this judicial district.

2.5 There are other persons, identities presently unknown to Plaintiff who are, and were at all times mentioned herein, employees, contract employees, supervisors, administrators, and/or managers OF THE DIVISION of OCCUPATIONAL SAFERTY AND HEALTH and other DIVISIONS of the DEPARTMENT OF LABOR INDUSTRIES who acted in concert with the above named Defendants and who carried out, devised, approved, or deliberately ignored the actions and omissions that are the subject of this action and in doing the things hereinafter alleged, acted under color of State and

**MCLERAN v. RAKEVICH- COMPLAINT**

4

LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

Federal Law as agents of LABOR AND INDUSTRIES AND/OR OTHER STATE OF WASHINGTON AGENCIES with their full consent and approval.

2.6 This action is brought pursuant to the Fifth and Fourteenth Amendments to the United States Constitution, The Civil Rights Act of 1964, and common law torts.

2.7 Plaintiff filed a claim within two years of the occurrence of damages in this matter. However, Plaintiff chooses to file only the causes of action with a three years statute of limitations, within which all events herein occurred, and this complaint now follows.

### **III. FACTS**

3.1 Plaintiff CRYSTAL MCLERAN and her husband DAN BONNELL (check) own and operate the Bonnell Tree Service.

3.2 At the time of the events in question in this action, Plaintiff had transitioned to the owner manager of the company, and her husband had transitioned to being the foreperson for their work teams.

3.3 On the morning of April 27, 2017, Defendant RAKEVICH showed up early in the morning at the residence of Plaintiff and her husband, while Plaintiff was still in her night clothes and insisted on inspecting all of their company safety equipment immediately.

#### **MCLERAN v. RAKEVICH- COMPLAINT**

5

LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

3.4 RAKEVICH claimed it was because a disgruntled employee had complained that they had no safety equipment.

3.5. The employee was disgruntled because Plaintiff paid him by check and refused to pay him under the table in cash.

3.6 RAKEVICH said there did not appear to be any problems, and documented that the company indeed had all of the required safety equipment and eventually left.

3.7 RAKEVICH later denied taking any pictures

3.8 Two months later as Plaintiff and her husband had a crew working on the grounds of an espresso stand in ELMA, WA in GRAYS HARBOR COUNTY, DEFENDANT RAKEVICH came to the jobsite claiming he saw a violation from a highway where he could not possibly have seen the jobsite.

3.9 RAKEVICH later altered his report to substitute a location from which he plausibly could have seen the jobsite.

3.10 The violation that RAKEVICH claimed to have seen, from a great distance, was an employee working with wearing the required safety glasses.

3.11 RAKEVICH informed Plaintiff that she would receive a notice of violations in the mail.

**MCLERAN v. RAKEVICH- COMPLAINT**

6

LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

3.12 In the report, RAKEVICH got basic facts wrong including the address of the worksite even though that was clearly visible on the front door.

3.13 On July 5, 2017 at 6:22 p.m. RAKEVICH called Plaintiff and asked to meet her in order to sign the paperwork to close the inspection. He sounded very nervous and was unable to explain the exact process.

3.14 He just said he would explain it to her when they met in person.

3.15 July 6, 2017. 9 am. Plaintiff and RAKEVICH met at the Burger King in Elma.

3.16 Something didn't feel right about the meeting. Plaintiff could not get a straight answer to her queries about what paperwork she needed to sign

3.17. PLAINTIFF called someone else at L&I (DEFENDANT LUDWIG) and asked, if they were closing an inspection, would the need to meet to sign anything?

3.18 LUDWIG told PLAINTIFF that he couldn't think of anything they would need to sign, but expressed no further interest, and initiated no action or investigation of any kind.

3.19 PLAINTIFF got there ahead of time. Ordered a soda and sat down in a booth to wait for RAKEVICH.

**MCLERAN v. RAKEVICH- COMPLAINT**

7

LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

3.20 When RAKEVICH arrived, he objected to the booth. He said, "I can't get my fat gut in there."

3.21 Plaintiff then suggested a move to a nearby table, that would have been close to an occupied booth.

3.22 RAKEVICH objected to that location as well. He said, "no let's go where we can have privacy."

3.23 RAKEVICH started to tell PLAINTIFF all the violations she could be written up for, for example, the t-shirts on some workers were cut by them, and one off-duty worker who offered to stay and help another didn't take the time to put on his chaps and eye protection even though Plaintiff had told him to wear the appropriate protection.

3.24 PLAINTIFF asked RAKEVICH "Do you know how much those fines are?"

3.25 RAKEVICH'S response was "I don't have access to that information, because if I knew, I'm so soft-hearted, I'd never give out citations."

3.26 It was clear to PLAINTIFF that RAKEVICH was trying to ingratiate himself to PLAINTIFF, to get her to like him.

3.27 This puzzled PLAINTIFF as it seemed to have nothing to do with the stated purpose of the meeting or any appropriate regulatory function.

**MCLERAN v. RAKEVICH- COMPLAINT**

8

LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

3.28 PLAINTIFF began to get a strong sense that RAKEVICH was using the meeting as a pretext to initiate a romantic/sexual relationship.

3.29 PLAINTIFF tried to deflect RAKEVICH'S inappropriate and unwelcome overtures by steering the conversation back to the actual matters at hand, noting that, "we never got the paperwork that we passed the inspection (back in April).

3.30 The meeting drew to a close. As they got to leave, RAKEVICH made the comment, 'it's too bad someone like you has to learn these things the hard way. But that's up to you.'

3.31 By then, the implications were clear: 'have a romantic/sexual relationship with me, or I will find ways to attack your business and make your life miserable.'

3.32 At this point, she said "well, these things happen"

3.33 PLAINTIFF was afraid that if she confronted RAKEVICH or said anything directly negative, that he would retaliate and make life much harder for her.

3.34 Plaintiff was stunned, disgusted, and extremely frightened.

3.35 By the time she got home, she was "shaking like a leaf."

**MCLERAN v. RAKEVICH- COMPLAINT**

9

LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

3.36 On the date of the supposed violations, PLAINTIFF's *husband*, not Plaintiff, was listed as the owner due to a paperwork snafu, and PLAINTIFF's husband was the foreperson for the crew working that day. He was on-scene,; Plaintiff was not.

3.36 Other students were given multiple opportunities to correct mistakes during a lab session, or, alternatively to note their mistake and move on without penalty.

3.37 Thus, there was no reason to meet with PLAINTIFF alone, and every reason to meet with her husband DAN.

3.38 On July 10, 2017, RAKEVICH called PLAINTIFF again on the pretext on getting the correct spelling of her name, even though he already had it.

3.39 RAKEVICH took that opportunity to threaten PLAINTIFF with more violations.

3.40 RAKEVICH fined PLAINTIFF \$3600, an amount that even RAKEVICH's supervisors found shockingly high for a first violation.

3.41 On appeal, Plaintiff was eventually able bargain it down to \$1800 plus \$1400 worth of safety equipment.

3.42 No disciplinary review or action was ever taken against RAKEVCH.

3.43 RAKEVICH was forced to leave a previous position due to sexual misconduct. That information was readily available industry wide, including to L & I.

3.44 The events described here in caused a great deal of fear, pain, loss of sleep, stress, and other harm to Plaintiff, all with physical effects and all was foreseeable.

3.45 This action follows.

#### **IV. STATEMENT OF DAMAGES**

4.1 As a direct and proximate result of the intentional and/or negligent acts of Defendants, Plaintiff CRYSTAL MCLERAN sustained deprivation of her Fifth and 14<sup>th</sup> Amendment Rights to Due Process and Equal Protection and discrimination as defined by the Civil Rights Act of 1964, based on her GENDER

4.2 As a direct and proximate result of the deliberate and negligent acts of Defendants, Plaintiff suffered economic and ongoing emotional harm in an amount to be proven at trial.

4.3 As a further direct and proximate result of the intentional and/or negligent acts of Defendants, Plaintiff has had to retain legal counsel to vindicate her rights in

court at an amount to be established at trial and for which she is entitled to be reimbursed.

4.4 As a further direct and proximate result of the intentional and negligent acts of the Defendants, Plaintiff suffered severe, debilitating psychological and emotional harm including loss of confidence, depression, stress, anxiety, loss of sleep and occurrence of nightmares, all at a cost to be proven at trial.

4.5 Plaintiff is entitled to compensation for the Constitutional and personal harms Defendants inflicted on her, and the resulting long-term and ongoing disruption to her life.

#### **IV. CAUSES OF ACTION**

##### **COUNT ONE** **VIOLATION OF CIVIL RIGHTS** **(TITLE 42 U.S.C. SECTION 1983)** **(As To All Individual Defendants and DOES 1-100)**

5.1. Plaintiff re-alleges and incorporates herein by reference the allegations set forth in Paragraphs 1 through 4.5 of this complaint.

5.2 In committing the acts complained of herein, Defendants, and the individual Doe decision-makers acted under color of state law to deprive Plaintiff Crystal McCleran, as alleged herein, of certain constitutionally protected rights including, but not limited to:

##### **MCLERAN v. RAKEVICH- COMPLAINT**

12

LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

- (a) The right not to be deprived of fundamental rights without due process of law;
- (b) The right to equal protection of the law;
- (c) The right to be free from discriminatory regulatory practices;
- (d) The right to be free from a harmful, hostile, and discriminatory regulatory climate based on her gender.
- (e) The right to be free from government practices designed to misuse and abuse power for personal gratification and to facilitate discriminatory and harassing conduct.

5.3 In violating Plaintiff's rights as delineated above, and other rights according to proof, Defendants acted by verbal abuse, unfounded accusation, repeated denial of basic due process, sexual harassment, and retaliation for rebuffing sexual advances, and summary deprivation of equal rights and treatment, or by ratifying personally the above listed conducts, Defendants acted to violate Plaintiff's rights under the Fifth and 14th Amendments to the U.S.

Constitution.

5.4 DOES 1-100 other employees and/or officials of the Department of Labor and Industries and/or related agencies involved in the decision and implementation of the discrimination against Plaintiff.

5.5 As a direct and proximate result of the violations of Crystal McLeran's Constitutional rights by Defendants, and each of them, Plaintiff foreseeably suffered general and special damages as alleged in this complaint.

5.6 The conduct of Defendants was willful, malicious, oppressive, and/or reckless, and was of such a nature that punitive damages should be imposed in an amount commensurate with the wrongful acts alleged herein.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

**COUNT TWO**  
**Violation of Civil Rights**  
**(Title 42 U.S.C. Section 1983)**  
**(As To DEFENDANTS LUDWIG, SMITH, and Does 101-150)**

5.7 Plaintiffs re-allege and incorporate herein by reference the allegations set forth in Paragraphs 1 through 5.6 of this complaint.

5.8 At all times herein mentioned, Supervisors LUDWIG, SMITH, AND OFFICIALS AT L & I above them acted with deliberate intent and a deliberate policy to discriminate against Plaintiff and other similarly situated FEMALE Owners, Managers, and supervisors in non-traditional positions for Women, and treat them disparately with conduct that would not be tolerated towards male subjects and deprived Plaintiff and many others of their rights secured by the Constitution of the United States, including, but not limited to their rights under the Fifth and 14th Amendments to the U.S. Constitution, and the Washington State Constitution.

5.9 These Defendants, as well as the Doe Department of Labor and Industries and other State Officials acted deliberately to ratify the above-described policy and actions and participated in the creation and implementation of this policy, and failed to properly train, supervise, and discipline Doe Defendant Instructor, supervisors, administrators, managers and employees.

5.10 In committing the acts complained of herein and in their official and individual capacity, Ludwig, Smith, and the State Officials acted with a design and intention to deprive Plaintiff and others of rights secured by the Constitution of the United States and The Civil Rights of 1964 and acted with deliberate indifference to Plaintiff's rights.

5.11 As a direct and proximate result of the acts complained of herein, Plaintiff has suffered general and special damages as set forth in this complaint.

5.12 The conduct of Defendants was willful, malicious, oppressive, and/or reckless, and was of such a nature that punitive damages should be imposed in an amount commensurate with the wrongful acts alleged herein.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

**COUNT THREE**  
**NEGLIGENCE**  
**(As to All Defendants)**

5.13 Plaintiff re-alleges and incorporates herein by reference the allegations set forth in Paragraphs 1 through 5.12 of this complaint.

5.14 Defendants, and each of them, owed Plaintiff a duty to use due care and FOSTER AND ENFORCE a non-discriminatory AND NON-HARASSING environment.

5.15 In committing the aforementioned acts and/or omissions, Defendants, and each of them, negligently breached said duty by failing to provide a reasonable and non-discriminatory REGULATORY environment, directly and proximately resulting in the injuries and damages to the Plaintiff as alleged herein.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

**COUNT FOUR**  
**INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS/OUTRAGE**  
**(As to All DEFENDANTS)**

5.16 PLAINTIFF re-alleges and incorporate herein by reference the allegations set forth in Paragraphs 1 through 5.15 of this complaint.

5.17 In carrying out the Constitutional Violations, Harassment and DISCRIMINATION and other acts alleged throughout this complaint, DEFENDANTS, and each of them sought to cause emotional distress and trauma to PLAINTIFF, and PLAINTIFF did suffer such emotional distress with accompanying physical symptoms.

5.18 As a direct and proximate result of the violation of her Constitutional rights and discriminatory conduct by DEFENDANTS, PLAINTIFF suffered general and special damages as alleged in this complaint.

5.19 The acts of DEFENDANTS were extreme and outrageous, and would be so seen and would shock the conscience of a reasonable person.

5.20 The conduct of DEFENDANTS was willful, malicious, oppressive, extreme and outrageous and/or reckless, and was of such a nature that punitive damages should be imposed in an amount commensurate with the wrongful acts alleged herein.

WHEREFORE, PLAINTIFF prays for relief as hereinafter set forth.

#### **VI. JURY TRIAL DEMAND**

6.0 Plaintiff hereby demands a jury trial in this matter.

#### **VII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

1. For general damages including pain and suffering together with special damages for

Plaintiffs' reasonable and necessary legal expenses, medical expenses both past and future, and other economic loss the exact amount of which will be established at the time of trial;

2. For punitive damages in an amount to be proven at trial pursuant to Federal and State law;
3. For actual attorneys' fees and litigation costs pursuant to 42 U.S.C. 1988;
4. For statutory attorneys' fees and costs; and
5. For court supervised sensitivity and anti-oppression training and regulations requiring the Department of Labor and Industries, and its Director, Managers, supervisors, and officers establish controls and review processes to ensure that such abuses not occur again.
6. For reimbursement of unjustified fines and/or fees.
7. For such other and further relief as the Court deems just and proper.

DATED: April 27, 2020

/S/ LAWRENCE A. HILDES  
LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net  
Attorneys for Plaintiff CRYSTAL MCLERAN

**MCLERAN v. RAKEVICH- COMPLAINT**

18

LAWRENCE A. HILDES (WSBA # 35035)  
P.O. Box 5405  
Bellingham, WA 98227  
Telephone: (360) 599-4339  
Email: lhildes@earthlink.net  
ATTORNEY FOR PLAINTIFF